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National Basketball Association, National
Football League, National Hockey League, and
Office of the Commissioner of Baseball doing
business as Major League Baseball

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, *et al.*,

Plaintiffs,

v.

CHRISTOPHER J. CHRISTIE, Governor of the
State of New Jersey, *et al.*,

Defendants.

:
:
: Civil Action No. 12-cv-4947 (MAS)(LHG)
: Hon. Michael A. Shipp, U.S.D.J.
: Hon. Lois H. Goodman, U.S.M.J.
:
: **CERTIFICATION OF DANIEL J.
: SPILLANE OF THE NATIONAL
: BASKETBALL ASSOCIATION IN
: FURTHER SUPPORT OF
: DEFENDANTS' MOTION
: TO SEAL DOCUMENTS AND IN
: SUPPORT OF PLAINTIFFS' CROSS-
: MOTION TO SEAL**

I, **DANIEL J. SPILLANE**, of full age, hereby certify as follows:

1. I am Vice President and Assistant General Counsel of the National Basketball Association ("NBA"). I am familiar with the confidential NBA documents presently at issue in *NCAA, et al. v. Christie, et al.*, Civil Action Number 12-cv-4947, which is pending in the United

States District Court for the District of New Jersey, and I base this certification on personal knowledge.

2. I make this Certification in support of Plaintiffs' Cross-Motion to Seal and in further support of Defendants' Motion to Seal [document 77] as they relate to the following documents:

- a. Exhibit 30 to the Certification of Peter Slocum, which is a copy of excerpts of the NBA Constitution and By-Laws;
- b. Exhibit 35 to the Certification of Peter Slocum, which is a copy of a December 2008 Harris Interactive Study of the NBA and Gambling;
- c. Exhibit 36 to the Certification of Peter Slocum, which is a copy of a December 2009 Harris Interactive NBA Integrity Study;
- d. Exhibit 37 to the Certification of Peter Slocum, which is a copy of a March 2010 Harris Interactive NBA Integrity Study;
- e. Exhibit 38 to the Certification of Peter Slocum, which is a copy of a Fall 2009 Harris Interactive NBA Sports Integrity Study;
- f. Exhibit 39 to the Certification of Peter Slocum, which is a copy of a Spring 2011 Harris Interactive NBA Sports Integrity Study;
- g. Exhibit 40 to the Certification of Peter Slocum, which is a copy of excerpts from the October 24-25, 2007 Minutes of the Annual Meeting of the NBA Board of Governors;
- h. Exhibit 41 to the Certification of Peter Slocum, which is a copy of excerpts from the October 22-23, 2008 Minutes of the Annual Meeting of the NBA Board of Governors;

- i. Exhibit 45 to the Certification of Peter Slocum, which is a copy of excerpts from the NBA Operations Manual;
- j. Exhibit 23 to the Certification of Richard Hernandez, which is a copy of a July 2007 Harris QuickQuery NBA Las Vegas/Gambling Survey;
- k. Exhibit 12 to the Certification of Peter Slocum, which is a copy of excerpts from the transcript of the November 15, 2012 deposition of Richard W. Buchanan, the Rule 30(b)(6) designee of Plaintiff National Basketball Association, and Exhibit 7 to the Certification of Richard Hernandez, which is a copy of the entire deposition transcript “Buchanan Deposition”); and
- l. Exhibit 31 to the Certification of Richard Hernandez, which is a copy of the transcript of the November 30, 2012 deposition of Robert D. Willig, a witness proffered as an expert by the Defendants in this action (“Willig Deposition”).

I understand that, based upon confidentiality designations made by Plaintiffs during discovery, Plaintiffs and/or Defendants have requested that these documents be filed under seal.

3. The NBA is the world’s most popular and widely-recognized professional basketball league. The NBA is a private entity that exists among, and in competition with, in addition to other entities, other basketball leagues, other professional sports leagues, and other companies and entities that provide entertainment products and services. The NBA is governed by a Board of Governors, which oversees the operation of the League in accordance with the NBA Constitution and By-Laws and other NBA rules and regulations.

Exhibits 30 and 45 to the Slocum Certification:
NBA Constitution & By-Laws and NBA Operations Manual

4. The NBA has a legitimate interest that warrants an Order permitting Defendants to file the excerpts of the NBA Constitution & By-Laws and excerpts of the NBA Operations

Manual under seal. The excerpts from the NBA Constitution & By-Laws address misconduct by persons other than players, including wagering on NBA games by NBA personnel, along with the penalties that may be imposed for such misconduct. The excerpts from the NBA Operations Manual contain an overview of the manual, the NBA's anti-gambling rules, and rules regarding restrictions on team arrangements with gambling establishments and lotteries.

5. The NBA Constitution & By-Laws and NBA Operations Manual are not made publicly available and are distributed only for the internal use of NBA league and team personnel. They contain highly sensitive information, developed over years of existence in a competitive marketplace, regarding the NBA's internal governance, rules, and operating processes.

6. Public disclosure of the excerpts from the NBA Constitution & By-Laws or the NBA Operations Manual would permit competitors to view proprietary and sensitive information regarding the NBA's business. This information could permit other basketball leagues, other professional sports leagues, and other companies and entities that provide entertainment products and services to gain a competitive advantage against the NBA.

7. No less restrictive alternative to sealing the entirety of the excerpts from the NBA Constitution & By-Laws and the excerpts from the NBA Operations Manual is available due to the entirety of each document containing highly sensitive information of which redaction is not practical.

Slocum Certification Exhibits 35 to 39 and
Hernandez Certification Exhibit 23: Harris Interactive NBA Studies

8. The NBA has a legitimate interest that warrants an Order permitting Defendants to file under seal the December 2008 Harris Interactive Study of the NBA and Gambling (Exhibit 35 to the Slocum Certification), December 2009 Harris Interactive NBA Integrity Study

(Exhibit 36), March 2010 Harris Interactive NBA Integrity Study (Exhibit 37), Fall 2009 Harris Interactive NBA Sports Integrity Study (Exhibit 38), Spring 2011 Harris Interactive NBA Sports Integrity Study (Exhibit 39), and July 2007 Harris QuickQuery NBA Las Vegas/Gambling Survey (Exhibit 23 to the Hernandez Certification) (collectively, “Harris Interactive NBA Studies”). These documents are not publicly available and have not even been disclosed to the other Plaintiffs in this case. The Harris Interactive NBA Studies contain highly confidential and proprietary business and marketing research and information. Specifically, the studies – which were commissioned by the NBA – contain data and related analysis regarding sports fans’ perceptions of professional sports leagues, including comparisons between fans’ perceptions of the NBA and other leagues.

9. The public disclosure of the Harris Interactive NBA Studies would cause serious injury to the NBA because if other basketball leagues, other professional sports leagues, or other companies and entities that provide entertainment products and services were to gain access to the information contained within these Studies, those leagues, companies or entities could gain a competitive advantage over the NBA and adversely affect the business operations of the NBA and its member teams.

10. No less restrictive alternative to sealing the entirety of the Harris Interactive NBA Studies is available due to the entirety of each document containing highly sensitive information of which redaction is not practical.

Slocum Certification Exhibits 40 and 41:
Minutes from Annual Meetings of the NBA Board of Governors

11. The NBA further has a legitimate interest that warrants an Order permitting Defendants to file under seal excerpts from the October 24-25, 2007 Minutes of the Annual Meeting of the NBA Board of Governors (Exhibit 40 to the Slocum Certification) and excerpts

from the October 22-23, 2008 Minutes of the Annual Meeting of the NBA Board of Governors (Exhibit 41).

12. The Minutes of the Meetings of the NBA Board of Governors are distributed only to the members of the NBA Board of Governors and a limited group of senior NBA league office personnel. These documents are kept confidential within the NBA and are not made publicly available. The Minutes reflect the Board of Governors' internal deliberations and processes, including confidential business decisions that impact specific entities and individuals.

13. The public disclosure of excerpts from the October 24-25, 2007 and October 22-23, 2008 Minutes of the Annual Meetings of the NBA Board of Governors could cause serious injury to the NBA because the documents reflect the league's confidential internal deliberations regarding specific teams and individuals, disclosure of which could put the NBA at a competitive disadvantage and impair the league's ability to govern itself effectively.

14. No less restrictive alternative to sealing the excerpts of the October 24-25, 2007 and October 22-23, 2008 Minutes of the Annual Meetings of the NBA Board of Governors is available due to the entirety of each excerpt containing highly sensitive information of which redaction is not practical.

Slocum Certification Exhibit 12/Hernandez Certification Exhibit 7: Buchanan Deposition

15. The NBA has redacted the following pages and lines from the publicly filed version of the Buchanan Deposition and seeks to file the entire unredacted Buchanan Deposition under seal: 53:4-58:18; 75:20-77:14; 78:13-109:3; 136:19-140:9; 144:21-149:6; 150:15-153:16; 156:10-157:25; 159:4-6; 159:22-165:20.

16. The NBA has a legitimate interest that warrants an Order permitting the parties to file the Buchanan Deposition under seal. The excerpts of this document that were redacted from

the versions of the transcript publicly filed with the Court contain discussion of the confidential documents discussed in Paragraphs 4 to 14 above, as well as proprietary and highly sensitive business information contained in and related to those confidential documents.

17. Additionally, the Buchanan Deposition contains discussion, which has been redacted, of the following confidential document that is not attached to either the Slocum Certification or Hernandez Certification, and that is not cited by either party in any of the pending motion papers: Excerpts from the 2012-2013 “Work Rules for NBA Officials,” which is not made publicly available and is distributed only for the internal use of NBA personnel. This document contains highly sensitive information, developed over years of existence in a competitive marketplace, regarding the NBA’s internal rules and operating processes. Public disclosure of the excerpts from the 2012-2013 “Work Rules for NBA Officials” would permit competitors to view proprietary and sensitive information regarding the NBA’s business. This information could permit other basketball leagues, other professional sports leagues, and other companies and entities that provide entertainment products and services to gain a competitive advantage against the NBA.

18. The public disclosure of the redacted sections of the Buchanan Deposition would cause serious injury to the NBA for the reasons discussed in Paragraphs 4 to 17 above.

19. No less restrictive alternative to sealing the Buchanan Deposition is available due to the entirety of each redacted excerpt containing highly sensitive information of which less-inclusive redaction is not practical. The remainder of the deposition remains available for public viewing.

Hernandez Certification Exhibit 31: Willig Deposition

20. The NBA has redacted the following pages and lines from the publicly filed version of the Willig Deposition and seeks to file the entire unredacted Willig Deposition under seal: 37:17-39:25.

21. The NBA has a legitimate interest that warrants an Order permitting Plaintiffs to file the Willig deposition under seal. The excerpts of this document that were redacted from the version of the transcript publicly filed with the Court contain discussion of proprietary and highly sensitive business information, specifically the Harris Interactive NBA Studies discussed in Paragraphs 8 to 10 above.

22. The public disclosure of the redacted section of the Willig Deposition would cause serious injury to the NBA for the reasons discussed in Paragraphs 8 to 10 above.

23. No less restrictive alternative to sealing the Willig Deposition is available due to the entirety of the redacted excerpt containing highly sensitive information of which less-inclusive redaction is not practical. Except for any other excerpts that may have been redacted by other Plaintiffs in this action, the remainder of the deposition remains available for public viewing.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



DANIEL J. SPILLANE

Dated: December 5, 2012